

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Pellet and Sanchez-Martinez

Patent No. 6,126,944

Issued: October 3, 2000

FILED VIA EFS

Application No. 08/480,850

Filed: June 7, 1995

Confirmation No. 9684

For: BACULOVIRUS EXPRESSION VECTORS
AND RECOMBINANT ANTIGENS FOR
DETECTING TYPE-SPECIFIC
ANTIBODIES TO HERPES SIMPLEX
VIRUS

Examiner: Louise N. Leary

Art Unit: 1623

Attorney Reference No. 6395-87124-02

SUBMITTED VIA THE ELECTRONIC FILING SYSTEM (EFS)
COMMISSIONER FOR PATENTS

DECLARATION OF CYNTHIA SHERWOOD

1. I, Cynthia Sherwood, am a Technology Development Coordinator for the Centers for Disease Control and Prevention (hereinafter "the CDC") Technology Transfer Office (TTO) in Atlanta, Georgia, which is a part of the Assignee of the above-referenced application, namely The United States of America as Represented by the Secretary of the Department of Health and Human Services (hereinafter "the Government"). I started working at CDC TTO in May 2002 as an Inteum database manager and then as a patent paralegal. In 2007 and 2008, I trained Veronica Brown to enter patent correspondence and documentation into the CDC's electronic database (Inteum), and at that time I reviewed the work of Ms. Brown, who docketed deadlines from law firm communications in the CDC electronic database for the CDC Technology Transfer Office.

2. On November 28, 2008, the Friday after Thanksgiving, a Notice of Patent Expiration ("Notice") for U.S. Patent No. 6,126,944 was received at the CDC by mail, as evidenced by a date stamp on the Notice that is attached as Exhibit 1. Normally the procedure at the CDC in 2007 and 2008 was that when patent correspondence, such as a Notice of Expiration, was

received, Ms. Brown would enter the document, and all related patent deadlines, into the electronic database (Inteum) used by the CDC. I would review documents and calendar dates after Ms. Brown entered them into Inteum. The patent correspondence was then provided to the filing clerk and placed in the patent file. However, as a result of a clerical error, this Notice was not entered in the electronic database, and the status of the patent was not changed. This is an isolated incident, and the first situation I am aware of since the CDC TTO was established in 1986 in which a Notice of Expiration was not entered into our calendaring system. This prior record of success led personnel at CDC TTO to reasonably rely on the accuracy of the data in this system with respect to the status of issued CDC patents.

3. On December 4, 2008, Mr. Francisco Candal, one of the Patent Advisors for the CDC, sent me a copy of the Notice by email. Under the CDC's procedures, the Patent Advisor should not have received this Notice until any relevant deadline had already been docketed. Accordingly, since the Notice was sent by a Patent Advisor, I thought the Notice had already been entered into the CDC's electronic system by Ms. Brown. I thus believed no action was required on the part of the administrative staff in response to this email. Nevertheless, out of an abundance of caution, I forwarded the Notice to Ms. Brown and Ms. Shropshire on December 9, 2008.

4. On April 13, 2011 the CDC database (Inteum) indicated that U.S. Patent No. 6,126,944 was issued and in good standing. Thus it is clear that despite the CDC procedures, the Notice was not properly entered into Inteum at the time of receipt, which was believed to be November 28, 2008. Since this Notice was not entered into Inteum, the Inteum entry would not have been able to remind other personnel in our office that the maintenance fee for this patent had not been paid.

5. All statements made herein and of my own knowledge are true and all statements made on information are believed to be true; and further, these statements were made with the knowledge that willful false statements and like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statements made may jeopardize the validity of the application or any patent issuing thereon.

Date 9/15/2011

Cynthia Sherwood
Cynthia Sherwood

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E-021-91

GWENDOLYN D. SPRATT
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E-MAIL: SPRATTG@BALLARDSPAHR.COM

November 20, 2008

Via U.S. Mail

Francisco Candal, M.S., M.T.
TECHNOLOGY MARKETING SPECIALIST
2877 Brandywine Rd.
Koger Center, Williams Building, Room 3833
Atlanta GA 30341

RE: Transfer of File Material
N&R Ballard Spahr Reference No: 14114.0368U2

Dear Paco:

We are transferring the enclosed correspondence to you with the understanding that our firm is no longer responsible for the handling of this case.

If you have any questions or concerns regarding this matter, please do not hesitate to contact us.

Very truly yours,



Gwendolyn D. Spratt

GDS/mkd
Enclosure

Val:
E-021-91
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NOT transferred yet
from N&R?
Paco

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CDC-TTO



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1414.0368U2

Commissioner for Patents
United States Patent and Trademark Office
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NOV 18 2008

PAYOR NUMBER
52488

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P75M

CENTERS FOR DISEASE CONTROL
c/o Ballard Spahr Andrews & Ingersoll, L
999 PEACHTREE STREET
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DATE PRINTED

11/03/08

NOTICE OF PATENT EXPIRATION

According to the records of the U.S. Patent and Trademark Office (USPTO), payment of the maintenance fee for the patent(s) listed below has not been received timely prior to the end of the six-month grace period in accordance with 37 CFR 1.362(e). THE PATENT(S) LISTED BELOW HAS THEREFORE EXPIRED AS OF THE END OF THE GRACE PERIOD. 35 U.S.C. 41(b). Notice of the expiration will be published in the USPTO Official Gazette.

Expired patents may be reinstated in accordance with 37 CFR 1.378 if upon petition, the maintenance fee and the surcharge set forth in 37 CFR 1.20(i) are paid, AND the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional. 35 U.S.C. 41(c)(1).

If the Director accepts payment of the maintenance fee and surcharge upon petition under 37 CFR 1.378, the patent shall be considered as not having expired but would be subject to the intervening rights and conditions set forth in 35 U.S.C. 41(c)(2).

For instructions on filing a petition under 37 CFR 1.378 to reinstate an expired patent, customers should call the Office of Petitions Help Desk at 571-272-3282 or refer to the USPTO Web site at www.uspto.gov/web/offices/pac/dapp/petitionspractice.html. The USPTO also permits reinstatement under 37 CFR 1.378(c) by electronic petition (e-petition) using EFS-Web; e-petitions may be automatically granted if all the eligibility requirements are met. For further information on filing an e-petition, please call the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 or refer to the EBC's e-petition guide at www.uspto.gov/ebc/portal/efs/petition_quickstart.pdf.

PATENT NUMBER	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPLICATION FILING DATE	EXPIRATION DATE	ATTORNEY DOCKET NUMBER
6126944	08480850	10/03/00	06/07/95	10/03/08	1414.657

GDS/

to

11/18/08

inactive - transferred to Client

NOTE: This notice was automatically generated based on the amount of time that elapsed since the date a patent was granted. It is possible that the patent term may have ended or been shortened due to a terminal disclaimer that was filed in the application. Also, for any patent that issued from an application filed on or after June 8, 1995 containing a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121, or 365(c), the patent term ends 20 years from the date on which the earliest such application was filed, unless the term was adjusted or extended under 35 U.S.C. 154 or 156.